

Upper San Joaquin River Basin Storage Investigation Tribal Coordination Meeting – DRAFT Summary

July 21, 2005

Lemoore, California

Name	Affiliation
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Brian Zewe	Reclamation, USJRBSI Project Manager
Frank Perniciaro	Reclamation, Native American Affairs Program Manager
Patrick Welch	Reclamation, Regional Archeologist
Vernon Vera	Santa Rosa Rancheria/ Tribal EPA
Mike Russell	Table Mountain Rancheria, Tribal Administrator
Malia Pickering	Table Mountain Rancheria, Tribal EPA
Roxie Martinez	Table Mountain Rancheria, Tribal EPA
Ron Bales	The Palace WWTP
Alec Garfield	Tule River Tribe, Chairman, Tule River Indian Water Rights Settlement

Agenda:

- Welcome and Introductions
- Call for Agenda Revisions or Additions
- Brief Overview of USJRBSI
- Consultation Protocol Letter, January 2005
- Investigation Schedule to Completion
- Next Steps
- Adjourn

MEETING SUMMARY

Welcome and Introductions

This summary describes the proceedings of the Upper San Joaquin River Basin Storage Investigation (Investigation) Tribal Coordination Meeting, held on July 21, 2005 at the Palace Indian Gaming Center of Santa Rosa Rancheria, Lemoore, California. Frank Perniciaro led a round of introductions and explained that the purposes of this meeting were to review progress, and discuss the next steps in the Investigation.

Call for Agenda Revisions or Additions

Prior to proceeding with the agenda, Mr. Perniciaro solicited suggestions for agenda revisions or additions. Alec Garfield requested that Mr. Perniciaro provide the audience with information regarding Reclamation's Native American Affairs Technical Assistance grant program.

Overview of Reclamation's Native American Affairs Technical Assistance Grant Program

Mr. Perniciaro stated that an email was sent to tribal representatives informing them of a call for proposals for water resources related programs and projects on Indian lands. The grants are for two years, and are issued annually. Mr. Perniciaro encouraged all tribal representatives to submit grant proposals for water resources related projects on tribal lands, due by September 16, 2005.

Participants' questions and comments (hereafter presented in italics) about the Native American Affairs Technical Assistance grant program included below:

- *The Tule River Tribe is interested in developing a floodplain map for their lands.*
Reclamation Response: This project potentially fits the criteria, please submit a proposal.
- *What types of projects have been funded by these grants?*
Reclamation Response: Generally, projects studying on-reservation water quality fair well in competition. Past projects include water contamination studies, irrigation assessment, water needs assessments and water planning studies. However, construction can not be funded, nor is the program likely to fund tribal projects related to CALFED.
- *Can a consortium of tribes apply for funding?*
Reclamation Response: Yes, under PL 93-638, a consortium of tribes can apply for funding provided that the funding is "for the benefit of Indians because of their status as Indians".
- *What is the funding cap?*
Reclamation Response: about \$50,000 each year for two consecutive years per project and a tribe can submit more than one project in any given year.
- *Indirect costs must be incorporated into the grant proposal.*

Overview of USJRBSI and Investigation Schedule to Completion

Bill Swanson, project manager for MWH, Reclamation's consultant, provided a background of the Investigation, and an overview of the recently released Initial Alternatives Information Report. Brian Zewe, project manager for Reclamation, summarized the schedule for the Investigation, and identified key issues moving forward and next steps for the Investigation.

Participants' questions and comments (hereafter presented in italics) about the Investigation included:

1. *Is the water in Millerton Lake fully appropriated?*

Reclamation Response: Yes, most of the current water impounded by Friant Dam is diverted via the Madera and Friant-Kern canals annually. Additionally, about 120 Thousand Acre-Feet is dedicated annually downstream of Friant for Senior Water right holders that also keep the river wetted for about 37 miles.

2. *Have discussions about trust responsibility to tribes come up?*

Reclamation Response: Yes, other tribes have discussed the trust responsibility regarding USJRBSI as well as other storage investigations in other parts of northern California, such as the Shasta Lake Water Resources Investigation and the North of the Delta Offstream Storage Investigation. Reclamation, like other federal agencies has a trust responsibility to tribes. One component of this responsibility is to consult with tribes about federal activities that may have the

potential to affect Indian trust assets, so that tribes can fully evaluate the potential effects for themselves and express their views in a Government-to-Government forum.

3. *Is there going to be new water for the tribes?*

Reclamation Response: The Federally funded Investigation does not currently have a component to study potential tribal interests in USJRBSI water. However, tribal leaders can express these concerns to Reclamation's leadership in any manner deemed appropriate by the Tribes' government-to-government protocols, whether through consultation or by letter.

4. *What/How much do the other watersheds in the project area contribute to the Class 1, Class 2 and Section 215 contract quantities?*

Reclamation Response: Water in the Friant Division comes from releases from Friant Dam. There are no non-San Joaquin tributaries that contribute directly to Friant Division contract deliveries. For example, Lake Success Reservoir (Corps) does not provide water to the Friant Division. However, it may be possible for alternative sources of water to be "wheeled" via agreement through Friant Division facilities, such as the Friant-Kern Canal.

5. *Is this new water that would result in new contracts or satisfy existing contracts?*

Reclamation Response: No entities have come forward to assist in the required cost-share for any project under the USJRBSI, as is required by Reclamation Law, at this time in the Investigation. Reclamation has not identified potential beneficiaries for USJRBSI water, however, identifying and quantifying the benefits of the Investigation will be conducted in the next phase – Plan Formulation. The USJRBSI has the potential to provide a variety of benefits including water quality, restoration, conjunctive management and exchange opportunities, and improvements to water supply reliability in the basin.

6. *Is this Investigation the result of recent legislation put forward by Congressman Nunes?*

Reclamation Response: No. Although Congressman Nunes is a strong supporter of the Investigation, subsequent authorization was provided in PL 108-361, the Water Supply, Reliability, and Environmental Improvement Act, of October, 2004. This Act solidified funding in the next few years not only for the storage program, but other CALFED Programs as well.

7. *Who are developing restoration plans that will be used in the Investigation?*

Reclamation Response: Restoration plans are being developed by Reclamation, the Resources Management Coalition and other agencies. However, it is unclear at this time when restoration plans will be available for consideration by the Investigation team. In any case, restoration plans will require extensive review by the Investigation team for their soundness and the potential that new water can contribute to restoration objectives/targets.

8. *Is this meeting part of a requirement to request feedback from tribes?*

Reclamation Response: No. Reclamation policy and several Executive and Secretarial Orders "require consultation" whenever Executive Branch plans or activities potentially effect Indian trust assets. This meeting is not considered formal consultation. However, Reclamation is of the opinion that this meeting furthers the tribal knowledge base about USJRBSI, so that if and when consultation takes place, such consultation can be meaningful.

9. *This information is good for the tribes. This is a long-range deal and it seems that the tribes should figure out how they fit in this Investigation.*

10. *This information will be taken to the Santa Rosa Rancheria to see if they could be considered a beneficiary and part of the study.*
11. *CVP legislation called for providing water to the arid west and Indian reservations. Who is looking at Indian Trust Asset interest in bringing benefits to the tribes? These are decisions that need to be made by the tribes. Noted.*
12. *With new supply, how are current contracts affected? New water districts would surely try to get additional water. Reclamation Response: It is unknown at this time if or how the current contracts would be affected, because new water could be available for a variety of purposes. Also, see response to 5. above.*
13. *Would tribes have to provide information on differentiation of water uses if tribes were to demonstrate a need for Reclamation [USJRBSI] water supply? Reclamation Response: As a general guide, the more specific a potential water use is identified, the better the potential to assess how it may or may not fit into the Reclamation Program.*
14. *Some of these tribes live along the San Joaquin River. Why can't these tribes take water rather than pay for storage and conveyance back to them? Reclamation Response: This is a complex question, but it may be that its root is in the unique political relationship between the Tribes and the United States, the legal status of trust lands, and the nature of state water rights, and unquantified federally reserved Indian water rights.*
15. *Tribes would like to seek assistance from Reclamation and agencies to develop opportunities for tribes to work together through consortiums for enhancing projects off of reservations and transferring water to other tribes. Noted.*
16. *Is there a schematic that outlines the steps of the process that will be taken towards the Plan Formulation Report? Reclamation Response: Yes. Chapter 5 of the Initial Alternatives Information Report outlines graphically and provides details on the Plan Formulation approach/process.*
17. *Will information on the processes be available to the tribes? Reclamation Response: The Investigation team will continue to provide timely updates to the tribes as we proceed. Also see response to question 16.*

Reclamation provided copies of the Initial Alternatives Information Report and CD-ROM versions to all tribes in attendance.

Consultation Protocol

Mr. Perniciaro distributed a copy of the Consultation Protocol letter, issued January 2005 and briefly discussed the positive potential for protocol agreements. Frank expressed his view that in order for consultation to be meaningful, it must be timely, and that developing a protocol agreement may be one positive step in that direction.

Next Steps

The next Tribal Coordination Meeting will be held in approximately six months, to allow sufficient time for the Investigation team to develop new information to present to the tribes. Mr. Perniciaro expressed that in the meantime, tribes are welcome to request meetings, or to initiate designing protocol agreements.

Patrick Welch stated that Reclamation has not initiated the Section 106 compliance process under the National Historic Preservation Act . Reclamation will be sending out letters to tribes once that process is initiated.

Adjourn